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6                   UNITED STATES DISTRICT COURT  
7                   WESTERN DISTRICT OF WASHINGTON  
8                   AT SEATTLE

9                   ROBERT JOHN PRESTON,

10                  Plaintiff,

Case No. C16-1106-JCC-MAT

11                  v.

ORDER

12                  RYAN BOYER, et al.,

13                  Defendants.

14                  This is a 42 U.S.C. § 1983 prisoner civil rights action. Currently before the Court is  
15 Snohomish County's motion to strike the testimony of plaintiff's expert Scott DeFoe (Dkt. 191 at  
16 10-11) and plaintiff's motion to file a surreply regarding a pending motion to seal (Dkt. 190).  
17 Having considered the parties submissions, the balance of the record, and the governing law, the  
18 Court finds and ORDERS:

19                  (1)     The County moves to strike testimony from Mr. DeFoe that plaintiff submitted in  
20 opposition to the County's motion for summary judgment. The County raises the motion to strike  
21 in its August 9, 2019 reply brief in support of its motion for summary judgment. (Dkt. 191 at 10-  
22 11.) In opposing the motion to strike, plaintiff argues that the County's motion is improper under  
23 LCR 16(b)(4), which provides: "Unless otherwise ordered by the court, parties shall file any

motion to exclude expert testimony for failure to satisfy *Daubert v. Merrell Dow Pharmaceuticals, Inc.* and its progeny not later than the deadline to file dispositive motions.” (Dkt. 194 at 1 n.1.) It appears the County seeks to exclude Mr. DeFoe’s testimony based on *Daubert*. (See Dkt. 191 at 10 (citing *Daubert*).) The County also filed the motion after the dispositive motions deadline, which was July 12, 2019. (See Dkt. 149 at 2.) Accordingly, the County shall SHOW CAUSE, within 7 days of the date of this order, why the motion to strike should not be summarily denied as filed in violation of LCR 16(b)(4).

(2) The County moves to seal the unredacted version of its motion for summary judgment and certain exhibits submitted in support thereof. (Dkt. 158.) Plaintiff opposed the motion. (Dkt. 177.) The County's reply raised new arguments not included in its motion. (Dkt. 182.) Plaintiff moves for leave to file a surreply that addresses only the new arguments raised in the County's reply. (Dkt. 190.) The motion (Dkt. 190) is GRANTED, and plaintiff shall file a surreply within 7 days of the date of this order.

(3) The Clerk is directed to send copies of this order to the parties and to the Honorable John C. Coughenour.

Dated this 24th day of October, 2019.

Mary Alice Theiler  
Mary Alice Theiler  
United States Magistrate Judge